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**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEVADA**

UNITED STATES OF AMERICA

Plaintiff,

WALKER RIVER PAIUTE TRIBE,

Plaintiff-Intervenor,

vs.

WALKER RIVER IRRIGATION DISTRICT,  
a corporation, et al.

Defendants.

IN EQUITY NOs. C-125-ECR;  
C-125-B

**PRE-HEARING STATUS REPORT**

The Court has set October 1, 2004, as the date for a status conference before the Magistrate Judge in the C-125-B subproceeding. *Minutes of the Court*, No. C-125-B (July 20, 2004). The United States, the Walker River Paiute Tribe ("Tribe"), and the Walker River Irrigation District ("District") respectfully suggest that the following issues should be discussed at the October 1 hearing.

**I. MOTION TO STAY LANDOLT MOTION  
FOR ORDER TO SHOW CAUSE.**

On March 10, 2004, Joseph and Beverly Landolt filed a *Motion for Order to Show Cause re Contempt; Memorandum of Points and Authorities in Support of Motion for Order to Show Cause; Declaration of David Haight* (Mar. 10, 2004) ("Landolt Motion"). In response to the Landolt Motion, the Tribe filed the *Motion to Stay Responses to and Court's Consideration of Motion for Order to Show Cause re Contempt, or, Alternatively, to Dismiss Without Prejudice* (Apr. 19, 2004) ("Tribe's Motion"). Additionally, the District filed the *Walker River Irrigation District's Points and Authorities in Opposition to Motion for Order to Show Cause re Contempt* (Apr. 19, 2004) ("District's Opposition").

By the *Minutes of the Court* (July 14, 2004), the Court referred the Tribe's Motion, "to the Magistrate Judge for consideration and decision." The United States, the Tribe and the District respectfully suggest that the Magistrate Judge hear argument on the Tribe's Motion to stay or, alternatively, dismiss the Landolts' motion for an order to show cause without prejudice during the pendency of the ongoing settlement negotiations. The United States, the Tribe and the District respectfully suggest that the hearing scheduled for October 1, 2004 would be a beneficial time to also consider the Tribe's Motion since all of the parties will be present before the Court and this issue is now fully briefed. The undersigned counsel for the Tribe has communicated with Mr. Howard regarding the inclusion of the Tribe's Motion in the October 1 hearing. Mr. Howard does not object to expanding the scope of the October 1 hearing, to the extent the Court requires argument to resolve the Tribe's Motion. The undersigned counsel for the Tribe has communicated with counsel for the other parties to the C-125 proceeding, and the C-125-B and

1 C-125-C subproceedings, and they have indicated that they do not object to the consideration of  
2 the Tribe's Motion at the October 1, 2004 hearing.

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4 The United States, the Tribe and the District wish to emphasize that their suggestion  
5 applies only to the Tribe's Motion, that is, whether the Court should stay, or alternatively,  
6 dismiss without prejudice the Landolt Motion. The Court has ruled that "[t]he parties will not be  
7 required to respond to the merits of the Landolt motion (#622) until the present motion of the  
8 Tribe (#680) is ruled upon by the Court." *Minutes of the Court* (May 13, 2004). Thus, the  
9 October 1, 2004 hearing should not be addressed to the merits of the Landolt Motion, but rather,  
10 only to whether that motion should be stayed, or alternatively, dismissed without prejudice as a  
11 result of the settlement negotiations.  
12

13 **II. CASE MANAGEMENT ORDER AND STATUS OF SERVICE.**

14 Pursuant to the *Order Governing Mediation Process* (May 27, 2003), all matters  
15 identified under the *Case Management Order* (Apr. 18, 2000) are stayed pending the ongoing  
16 settlement negotiations, except for service upon water rights claimants in the C-125-B and C-  
17 125-C subproceedings. *Order Governing Mediation Process* ¶ 2(c). The United States and the  
18 Tribe have been working to mail service packets to potential counter-defendants according to the  
19 groups of potential counter-defendants identified in Paragraph 3 of the *Case Management Order*.  
20 On May 26, 2004, the United States filed the *Report of the United States of America Concerning*  
21 *Status of Service on Certain Persons and Entities* (May 26, 2004), by which the United States  
22 provided the Court with a comprehensive update of service efforts and asked the Court to take  
23 action with respect to various of the potential counter-defendants.  
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1 The United States, the Tribe and the District respectfully suggest that at the October 1,  
2 2004 hearing, the Court consider the *Report of the United States of America Concerning Status*  
3 *of Service on Certain Persons and Entities*, and the requested actions set forth therein.  
4

5 **III. NOTICE AND SERVICE UPON ADDITIONAL SERVED PARTIES,**  
6 **AND MANAGEMENT BY THE CLERK OF THE COURT.**

7 As a result of the ongoing service efforts, parties have entered notices of appearance in  
8 the C-125-B subproceeding. Some of those parties are not represented by counsel, and it is likely  
9 that as service efforts progress, additional unrepresented parties will join the C-125-B  
10 subproceeding. The United States, the Tribe and the District are concerned about the  
11 identification of the appropriate procedure by which the parties and the Clerk of the Court may  
12 provide notice to those parties. It is particularly important that this issue be discussed so that the  
13 Clerk of the Court can effectively manage a significant number of additional parties in the C-  
14 125-B subproceeding.  
15

16 The United States, the Tribe and the District respectfully suggest that the Court consider  
17 the question of service and notice to the additional parties who appear in the C-125-B  
18 subproceeding, and management of that large number of parties by the Clerk of the Court.  
19

20 Date: Sept. 23, 2004

Respectfully submitted,

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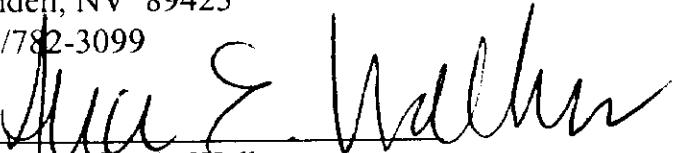
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**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing Pre-Hearing Status Report was sent by U.S. Mail, postage prepaid, this 23<sup>rd</sup> day of September, 2004, to the following:

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